

# **A PARENT GUIDE TO UNDERSTANDING EXTENDED SCHOOL YEAR (ESY) SERVICES**

By Elena M. Gallegos, Esq.  
Program Specialist  
Mountain Plains Regional Resource Center  
Utah State University  
1780 North Research Parkway, Suite 112  
Logan, Utah 84341  
(435) 752-0238

Your child may need educational services beyond the regular school year. The regulations that accompany the Individuals with Disabilities Education Act (IDEA) state: "Each public agency shall ensure that extended school year services are available as necessary to provide FAPE." 34 C.F.R. 300.309(a)(1). This guide is to assist you in understanding extended school year (ESY) services.

## **What are the eligibility criteria for ESY?**

The decision must be based on whether ESY is needed to prevent your child from losing, to a substantial degree, certain critical skills that he or she has gained during the regular school year.

## **Who makes the determination whether my child receives ESY?**

The IEP team makes the determination. The regulations state: "Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with Secs. 300.340-300.350, that the services are necessary for the provision of FAPE to the child." 34 C.F.R. 300.309(a)(2). As an IEP team member, you play an active part in making the decision.

## **When is the determination made?**

The decision is usually made at your child's annual IEP team meeting. If the annual IEP team meeting is held early in the school year, a special IEP team meeting may be called later in the school year to consider your child's eligibility for ESY.

## **Must my child show regression before he or she can be eligible for ESY?**

No. If no regression data from a previous summer are available, the IEP team may consider predictive data.

## **Do most students with disabilities qualify for ESY?**

No. The Third Circuit Court of Appeals reminds us that ESY is the exception and not the rule. For an IDEA eligible child to qualify for ESY, the IEP team must find, "in a particularized manner relating to the individual child, that an ESY is necessary to avoid something more than adequately recoupable regression." *Cordrey v. Euckert*, 917 F.2d 1460, 1473 (6th Cir. 1990).

**But my child's school offers summer school every year? Is that the same thing?**

Summer school is a voluntary program of the school district that is open to all students. ESY is available only to students with disabilities who meet the eligibility criteria for ESY. It is not a one size fits all program. Instead, ESY is individually designed by the IEP team to prevent substantial regression in those critical skill areas that are likely to be impacted by an extended summer recess.

**Is it possible for my child to receive only related services as part of his or her ESY?**

Yes. Some IDEA eligible students may only require related services as the sole component of their ESY. The IEP team will decide the frequency, length, and nature of the ESY.

**What information can I provide to assist the IEP team in the decision making process?**

The issue is whether the benefits accrued to your child during the regular school year will be significantly jeopardized if he or she is not provided an educational program during the summer months. You can assist the IEP team in its decision making process by providing information regarding your child's ability to maintain skills during extended recesses from school.

- How well did your child maintain skills last summer?
- Did your child have a structured program last summer? Was it continuous?  
How many hours per day?
- Was your child able to maintain skills within the context of the summer program?
- What impact do weekends and holidays have on your child?
- What level of structure must you provide in order for your child to maintain skills?
- How long does it usually take your child to regain the skills he or she has lost after an extended break?
- What skills has your child learned this year that you consider critical?
- In your opinion, what will result if your child does not receive services over the summer?

*TA paper prepared by: Elena M. Gallegos, Esq., Mountain Plains Regional Resource Center, 1780 N. Research Parkway, Suite 112, Logan, UT 84341.*